IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 7172 of 2005

Between:

1 Hanumanthu, s/o Gemiya Naik,
r/o Yellareddy Pally Village, Koilkonda Mandal,
Mahabubnagar District.
2 Bal Singh Naik, s/o Bheemla Naik,
r/o Yellareddy Pally Village, Koilkonda Mandal, Mahabubnagar District.

..... PETITIONER(S)

AND

1 The Commissioner of Civil Supplies/Incharge Director of Civil Supplies, Andhra Pradesh, Hyderabad.
2 The District Collector, Mahabubnagar District at Mahabubnagar.
3 The Revenue Divisional Officer, Mahabubnagar, Mahabubnagar District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more in the nature of writ of mandamus declaring the action of the 1st respondent in issuing impugned CCS proceedings No.N1/7524/2004, dt.14-3-2005, vacating the stay orders dt.23-9-2004, which were passed by the 1st respondent while entertaining the statutory appeal filed by the 2nd petitioner, without giving any notice and opportunity to the petitioners, even though the Statutory Appeal is pending, as illegal, arbitrary and contrary to the Articles 14 and 16 of Constitution of India and also principles of natural justice and consequently set aside the impugned CCS Proceedings dt.14-3-2005 of the 1st respondent and also a proceedings No.CS7/642/2004, dt.6-8-2004 of the 2nd respondent with a further direction to not to proceed further in pursuance to the proceedings dt.14-3-2005, till the disposal of the statutory appeal, by giving notice and opportunities to the petitioners as per the mandatory provision in the statutory Rules and to pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.POODATTU AMARENDER
Counsel for the Respondent No.: GP FOR CIVIL SUPPLIES

The Court at the stage of admission made the following :

ORAL ORDER:.

Heard both sides and at their request, this Writ Petition is taken up for disposal at the stage of admission.

This Writ Petition is filed for issuance of writ particularly in the nature of Writ of Mandamus, declaring the action of the first respondent in issuing impugned CCS Proceedings No. N1/7524/2004, dated 14.3.2005, vacating the stay orders dated 23.9.2004, which were passed by the first respondent while entertaining the statutory appeal filed by the second petitioner without giving any notice and opportunity to the petitioners even thought the statutory appeal is pending, as illegal, arbitrary and consequently set aside the impugned proceedings dated 14.3.2005 of the first respondent and also the proceedings dated 6.8.2004 of the second respondent with a further direction not to proceed further in pursuance to the proceedings dated 14.3.2005, till the disposal of the statutory appeal by giving notice and opportunity to the petitioners as per the mandatory provision in the Statutory Rules.

The only grievance of the petitioner is that the appellate authority having stayed the matter vacated the interim orders without giving any opportunity to the petitioner.

In the circumstances, it is needless to say that the petitioner should have obtained interim order before suffering any adverse order.

Hence, the Writ Petition is allowed. The impugned order is set aside and the matter is remitted back to the appellate authority-first respondent herein, with a direction to give an opportunity to the petitioner and pass final orders, as it deems fit and proper. It is made clear that the petitioner shall cooperative with the appellate authority for expeditious disposal of the appeal. In any event, the appeal shall be disposed of within a period of six weeks form the date of receipt of a copy of this order. Till such time, proceedings dated 6.8.2004 of the second respondent shall not be given effect to. No costs.

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D.S.R. VARMA, J

DATED: 01.04.2005

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To

1 The Commissioner of Civil Supplies/Incharge Director of Civil Supplies, Andhra Pradesh, Hyderabad.
2 The District Collector, Mahabubnagar District at Mahabubnagar.
3 The Revenue Divisional Officer, Mahabubnagar, Mahabubnagar District.

4. Two CCs to G.P. for Civil Supplies, High Court of A.P. Hyderabad. (OUT)

5. Two CD copies

6. 1 CC to MR.POODATTU AMARENDER